

NYNEX
1900 L Street, N.W., Suite 1000, Washington, D.C. 20036
Tel. (202) 436-7900
Fax (202) 436-7901
Internet: e-mail: firebell@nynex.com

EX PARTE OR LATE FILED

Joseph Di Bella
Counsel, NYNEX Telephone Companies

NYNEX

EX PARTE

July 17, 1996

Mr. William F. Caton
Acting Secretary
Federal Trade Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: NYNEX Telephone Companies Request for Confidential Treatment,
CC Docket No. 96-45

Dear Mr. Caton:

The NYNEX Telephone Companies¹ ("NYNEX") submit the attached information in response to the request of Mr. Ted Burmeister for data concerning the affordability of telephone service. Specifically, Mr. Burmeister requested data on the distribution of demand between measured and flat-rated local exchange service, by State, in the NYNEX region.

NYNEX requests that the page marked "Confidential" be treated on a confidential basis pursuant to Sections 0.457 and 0.459 of the Commission's rules and the Freedom of Information Act, 5 U.S.C. Section 552(b)(4). The document contains confidential business information, the disclosure of which could substantially harm NYNEX's competitive position.

Competition for local exchange telephone service already exists in many areas of the NYNEX region. In addition, the Telecommunications Act of 1996 will soon expand the opportunities for competitive local exchange carriers, interexchange carriers, cable providers, wireless carriers, and others in the telecommunications industry to enter the local exchange market.

Whether new entrants use their own facilities, or resell NYNEX's local exchange services, or both, it is likely that they will develop their own pricing plans to distinguish their services from NYNEX's. The information for which NYNEX requests confidential treatment shows how many customers in each State are subscribing to NYNEX's current measured or flat-rated services. Disclosure of this information would assist other providers of local exchange service in developing marketing plans that would adversely

¹ The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

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impact NYNEX's competitive position. Absent regulatory compulsion, NYNEX does not ordinarily disclose this information to parties outside the company.

Exemption 4 of the Freedom of Information Act shields information which is (1) commercial or financial in nature; (2) obtained from a person outside the government; and (3) privileged or confidential. *Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F.2d 252 (D.C. Cir. 1982). The attached information clearly satisfies the first two elements of that test.

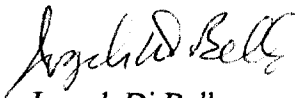
With respect to the third element of the above test, the Court found in *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) that information is considered "confidential" if disclosure is likely to (1) impair the government's ability to obtain necessary information in the future, or (2) disclosure is likely to harm substantially the competitive position of the person from whom the information was obtained.

However, in *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F.2d 871, 879 (D.C. Cir. 1992), the Court found that financial or commercial information provided to the government on a voluntary basis is "confidential" if it is of a kind that would customarily not be released to the public by the person from whom it was obtained. Since NYNEX is submitting the attached information voluntarily, and since NYNEX would not customarily disclose this information to the public except insofar as required by regulatory authority, the information is confidential under the standards set forth in *Critical Mass* without regard to the competitive harm or government impairment portions of the *National Parks* test.¹

If you cannot withhold this information from public inspection, please return the information to my office.

Please contact me if you have any questions regarding the information or the confidential nature of the information.

Sincerely,



Joseph Di Bella
Counsel

Enclosure: [Number]

cc: Ted Burmeister

¹ See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 96-109, released March 25, 1996, para. 6.

NYNEX
FEDERAL REGULATORY PLANNING

JULY 15, 1996

UNIVERSAL SERVICE - FCC DATA REQUEST

MR. D. HATTON:

David,

Attached is the information requested by Ted Burmeister of the Federal Communications Commission concerning the "affordability" of telephone service:

The following data for NYNEX (excluding EUCL) is as follows:

STATE (Residential)	Flat	Measured
New York	\$17.72	\$6.60
Massachusetts	\$16.85	\$9.91
Vermont	N/A	\$13.55 - \$20.08
Maine	\$10.32-\$12.08	N/A
New Hampshire	\$15.11	\$6.11
Rhode Island	\$15.86	\$6.17

The data collected for residential customers includes the current recurring monthly charge based on the weighted average tariffed rate or "service quantities" for most Basic Exchange services and does not include additional "usage" related charges. The Basic Exchange rate does not include the EUCL and vertical services such as call waiting.

The basic Flat and Measured rates for New York do not include premium or optional calling plans.

The basic flat rate plan for Massachusetts is \$16.85 (\$9.91 dial tone plus flat rate \$6.94). The Measured rate is \$9.91. These are standard rates throughout the state.

Additional information that includes the number of residential customers, percent of total, and weighted average rate is included in Table I

Optional Calling Plans

Attachment II includes a description of the residential customer Optional Calling Plans in the region.

Vin and I suggest you request confidential treatment for the information in Attachment I. Please contact me at (914) 644-6746 if you need additional information.

JHM

J.H. Lambertson
Attachments

Attachment I

Subject to Request for Confidential Treatment

ATTACHMENT II

OPTIONAL CALLING PLANS

NEW YORK

CENTS PER MINUTE

Discounted rate per minute on a tapered rate schedule.

UNLIMITED RATE PLANS

PERSONALIZED RATE PLAN

Average monthly flat rate based on customer's average monthly "Base period qualifying usage."

HOME REGION PERSONALIZED RATE PLANS

Personalized Rate Plan for subscribers in the 132 LATA.

DIAL-A-VISIT

Additional 40% discount applies to evening, night and weekend toll rates.

ECONOPATH

Subscribers commit to a minimum monthly usage based on low, light, medium, or heavy usage.

NY / NJ CORRIDOR OPTIONAL CALLING

InterLATA, Interstate to 5 counties in N.J. Customers subscribe to one hour block of time monthly which covers all calls made during the day, evening, and night and weekend periods.

MASSACHUSETTS

SELECTED CALLING SERVICE

Offered as a supplement to one-party residence main telephone exchange service within the 617 / 508 LATA and not exceeding 25 airline miles. Permits directly dialed calls at discounted rates to a maximum of 10 towns outside the primary calling area.

MEASURED CIRCLE CALLING SERVICE

Offered as a supplement to one-party residence main telephone exchange service within the 617 / 508 LATA. Provides for two hours per month of cumulative time on directly dialed calls outside the primary calling area within the 617 / 508 LATA.

LATA WIDE CALLING SERVICE

Offered as a supplement to one-party residence main telephone exchange service within the 413 LATA. Provides for two hours per month of cumulative time on directly dialed calls within the LATA, beyond the primary calling area.

EXPANDED COMMUNITY CALLING SERVICE

Offered as a supplement to one-party residence main telephone exchange service in the 617 / 508 / 403 LATA's. Provides for two hours per month of cumulative time on directly dialed calls to certain exchanges within the LATA.

MAINE

SELECTED CALLING SERVICE

Offered as a supplement to one, two, and four party residence main telephone exchange or trunk lines within the state of Maine. Permits directly dialed calls at discounted rates to a maximum of 17 wire centers outside the local calling area.

CALLAROUND CIRCLE CALLING SERVICE

Offered as a supplement to one-party residence main telephone exchange service within the State of Maine LATA. Provides for ninety minutes per month of cumulative message time on directly dialed MTS calls to exchanges within 30 miles of the primary calling area.

PINE TREE STATE SERVICE

Offered as a supplement to one-party residence main telephone exchange service within the State of Maine LATA. Provides for two hours per month of cumulative message time on directly dialed MTS calls during specified time periods.

VOLUME DISCOUNT

Provides percentage discounts on all Maine IntraLATA MTS calls when billing exceeds specified threshold amounts.

NETSAVER CALLING SERVICE

Offered as a supplement to one or two-party main telephone exchange service and offers the option of paying a specific monthly rate on monthly billed calls to obtain a 10%-15% discount on monthly billed calls.

NETSAVER PLUS

Offered as a supplement to one or two-party main telephone exchange service and offers the option of paying a specific monthly rate to obtain a per minute rate on calls made within the State of Maine.

VERMONT

CALLAROUND CIRCLE PLAN

Offered as a supplement to one or two-party residence main telephone exchange service. Provides one or two hours per month of cumulative message time on directly dialed calls beyond the local calling area not exceeding 24 airline miles within the state of Vermont LATA.

CALLAROUND 802 PLAN

Offered as a supplement to one or two-party residence main telephone exchange service. Provides one or two hours per month of cumulative message time on directly dialed calls beyond the local calling to any MTS point in the State of Vermont LATA.

NETSAVER PLUS.

Offered as a supplement to one or two-party main telephone exchange service and offers the option of paying a specific monthly rate to obtain a 30% discount on monthly billed calls within the State of Vermont.

RHODE ISLAND

SELECTED CALLING SERVICE

Offered as a supplement to one and two-party residence main telephone exchange service within the state of Rhode Island LATA. Permits directly dialed calls at discounted rates to a maximum of 10 exchanges outside the primary calling area but within Rhode Island and not to exceed 25 airline miles.

STATEWIDE CALLING SERVICE

Offered as a supplement to one or two-party residence main telephone exchange service. Provides one, two or four hours per month of cumulative message time on directly dialed calls placed to any toll point in the State of Rhode Island LATA

NEW HAMPSHIRE

CALLAROUND 603 PLAN

Offered as a supplement to all main telephone exchange service. Provides one hour per line, per month cumulative message time for directly dialed MTS calls within the State of New Hampshire LATA.

CUSTOMIZED NETSAVER PLUS

Offered as a supplement to residential customers for a minimum commitment amount of directly dialed (MTS) usage on a tapered rate schedule.